

**FILED**

**MAR 17 2019**

Clerk, U S District Court  
District Of Montana  
Missoula

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

**STATE OF MONTANA,**

**Plaintiff,**

**vs.**

**CYNTHIA ABCUG,**

**Defendant.**

**Cause No. CV 20-28-M-DLC  
CV 20-33-M-DLC**

**ORDER**

On March 13, 2020, Defendant Abcug filed a petition for writ of habeas corpus in this Court on March 11, 2020. She moved for a temporary restraining order on March 13. On that day, the Honorable Susan P. Watters issued an order denying the motion and dismissing the action for lack of federal jurisdiction. *See* Order (Doc. 8) at 3–4, *Abcug v. State*, No. CV 20-28-M-SPW (D. Mont. dismissed Mar. 13, 2020).

Abcug has now filed a notice of removal pertaining to what appears to the extradition proceeding in the Justice Court of Flathead County. A party may remove a state criminal prosecution to federal court if the party “is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the

jurisdiction thereof,” 28 U.S.C. § 1443(1), or if the party acted or refused to act under color of authority exercised to protect equal rights, *see id.* § 1443(2). The statute is an adjunct to the Civil Rights Acts of 1964 and 1866. For reasons rooted in its history, the statute is “intended to protect a limited category of rights, specifically defined in terms of racial equality.” *Georgia v. Rachel*, 384 U.S. 780, 791 (1966); *see also, e.g., Patel v. Del Taco, Inc.*, 446 F.3d 996, 999 (9th Cir. 2006).

Abcug’s notice of removal does not allege any facts or a basis on which she seeks removal. But the facts she alleged in her petition did not support an inference that any person or proceeding in Montana has violated or will violate her right to equal protection of the laws against racial discrimination. Nor did her allegations suggest the Montana Justice Court before which she must appear will not or cannot protect her right to equal protection of the laws against racial discrimination.

Abcug’s filings have become frivolous. The Court has explained that federal jurisdiction does not lie for her claims. Her allegations plainly belong in the courts of the State or federal District of Colorado, not in this Court.

Accordingly, IT IS ORDERED:

1. Cause Nos. CV 20-28-M and 20-33-M are REASSIGNED to the undersigned.

2. The clerk shall open a new case file for Abcug's notice of removal.
3. The action is REMANDED to the Flathead County Justice Court and CLOSED in this Court.
4. The clerk shall close the new case file by entering, by separate document, a judgment of dismissal.
5. The clerk shall notify the Clerk of the Flathead County Justice Court of the making of this Order.
6. No motions for reconsideration will be entertained. Other than a notice of appeal, the clerk will not accept any further filings in Cause No. CV 20-28-M-DLC or CV 20-33-M-DLC.

DATED this 17<sup>th</sup> day of March, 2020.



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Dana L. Christensen, Chief Judge  
United States District Court